

OFFICIAL TRANSCRIPT OF PROCEEDINGS BEFORE THE POSTAL RATE COMMISSION

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POSTAL RATE COMMISSION

In the Matter of:)
)
WASHINGTON MUTUAL BANK NSA) Docket No. MC2006-3

Room 200
Postal Rate Commission
901 New York Avenue, N.W.
Washington, D.C.

Tuesday, April 25, 2006

The above-entitled matter came on for hearing pursuant to notice, at 11:03 a.m.

BEFORE:

HON. GEORGE A. OMAS, CHAIRMAN
HON. DAWN A. TISDALE, VICE CHAIRMAN
HON. TONY A. HAMMOND, COMMISSIONER

APPEARANCES :

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P R O C E E D I N G S

(11:03 a.m.)

CHAIRMAN OMAS: Good morning. Today, we are holding a prehearing conference in Docket No. MC2006-3 concerning a proposed negotiated service agreement between the Postal Service and the Washington Mutual Bank.

I am George Omas, and I am Chairman of the Commission. With me this morning are Vice Chairman Don Tisdale and Commissioner Tony Hammond.

The Postal Service proposes to enter into a three year negotiated service agreement with Washington Mutual Bank. It asserts that this agreement is similar in structure to the Capital One negotiated service agreement, Docket Number MC2002-2.

The agreement is unique in that the economic value of the agreement derived primarily from the gains in the contribution from an expected increase in first class mail volume due to a declining block rate discount.

The reporter in this case is Heritage Reporting Company. There are forms for noting appearance available on the table as you enter the hearing room. If you wish to purchase transcript, you should see the reporter after today's conference, or

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1 call Area Code (202) 628-4888.

2 As this point, I would like to ask counsel
3 to identify themselves for the purposes of the record.
4 " The United States Postal Service.

5 MR. ALVERNO: Thank you, Mr. Chairman. I am
6 Anthony Alverno on behalf of the U.S. Postal Service.
7 I would first like to say that our colleague, Bill
8 Trumphour has been ill the last couple of weeks, and
9 we hope to have him back on this case as soon as he is
10 recuperating back in the office. Thank you.

11 CHAIRMAN OMAS: Thank you, Mr. Alverno.
12 Washington Mutual Bank.

13 MR. MAY: Timothy May of Patton Boggs,
14 representing Washington Mutual Bank.

15 CHAIRMAN OMAS: Thank you. Advo,
16 Incorporated.

17 (No response.)

18 CHAIRMAN OMAS: Alliance of Nonprofit
19 Mailers.

20 (No response.)

21 CHAIRMAN OMAS: American Postal Workers
22 Union, AFL-CIO.

23 (No response.)

24 CHAIRMAN OMAS: Discover Financial Services.
25 Excuse me, but there are mikes all over the room, and

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1 so you can just stand and we will hear you.

2 MR. BRINKMANN: Robert Brinkmann,
3 representing Discover Financial Services.

4 CHAIRMAN OMAS: New innovations in
5 technology. Isn't that wonderful? Thank you, Mr.
6 Brinkmann. Newspaper Association of America.

7 MR. BAKER: William Baker of Wiley, Rein and
8 Fielding, appearing on behalf of the Newspaper
9 Association of America.

10 CHAIRMAN OMAS: Thank you. Office of the
11 Consumer Advocate.

12 MR. COSTICH: Thank you, Mr. Chairman, Rand
13 Costich on behalf of the OCA. Also appearing is
14 Shelley Dreifuss, Director of the Office.

15 CHAIRMAN OMAS: Pitney Bowes, Incorporated.

16 MR. SCANLON: Good morning, Mr. Chairman,
17 Michael Scanlon on behalf of Pitney Bowes.

18 CHAIRMAN OMAS: Thank you. David B. Popkin.

19 (No response.)

20 CHAIRMAN OMAS: Val-Pak Dealers Association,
21 Incorporated.

22 MR. MILES: Good morning, Mr. Chairman, John
23 Miles on behalf of Val-Pak Dealers Association, Inc.,
24 and also on behalf of Val-Pak Direct Marketing
25 Systems, Inc. With me is Jeremiah Morgan of our

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1 office, and also representing the Val-Pak Company is
2 William Olson, who is not here today.

3 CHAIRMAN OMAS: Okay. Thank you. For the
4 recorder, Val-Pak Direct Marketing Systems,
5 Incorporated, was represented by the previous
6 gentleman. Is there anyone in the hearing room that I
7 have missed, or that would like to be recognized or to
8 intervene?

9 (No response.)

10 CHAIRMAN OMAS: Commission Order Number 1458
11 gave notice of the Postal Service's requests and
12 granted a Postal Service request to establish
13 settlement procedures.

14 Postal Service counsel was appointed to
15 serve as settlement coordinator. I understand that a
16 settlement conference was held earlier this morning.
17 Mr. Alverno, would you please give us a report on the
18 progress of that settlement discussion.

19 MR. ALVERNO: Thank you, Mr. Chairman.
20 Indeed, a settlement conference convened this morning
21 at 9:30 a.m. here at the Commission, and several
22 parties that are present currently were in attendance.
23 And the parties discussed several issues of substance
24 concerning the request, and I gauged the parties'
25 interest in the proceeding, and also tried to identify

1 terms for a possible settlement.

2 At the moment, it does not appear that a
3 settlement is, or any kind of agreement, is ripe for
4 consideration among the parties. However, I was able
5 to gather some information concerning the parties'
6 interest in pursuing various components of the case.

7 And it seems clear that we will have some
8 more written discovery from parties, and beyond that,
9 it is not clear that there will be a need for oral
10 hearings, although the parties will certainly want to
11 evaluate whether that is necessary at a later point in
12 the proceedings.

13 I also understand that at least none of the
14 parties currently have an interest on putting on a
15 direct case, although again they will need to evaluate
16 the need for putting on a direct case once the written
17 discovery period is concluded.

18 So at the moment, I would propose not to
19 have a settlement conference until certainly the
20 written discovery period has concluded, and the
21 parties are able to gauge their interest in actually
22 signing on to any kind of stipulation and agreement.

23 So I think what we should do, and what I
24 would propose be done at least, is that the Commission
25 schedule a period of written discovery at a certain

1 point, at which point the parties would then decide
2 whether or not they wanted to pursue anything further
3 in the case, other than go directly to brief, or to
4 sign on to a settlement. Thank you, Mr. Chairman.

5 CHAIRMAN OMAS: Thank you, Mr. Alverno.
6 Does anyone wish to add anything to their report;
7 those who attended the meeting this morning?

8 (No response.)

9 CHAIRMAN OMAS: If not, the next order of
10 business is discovery. Discovery is already available
11 to intervenors and some discovery has already been
12 filed. I would like participants to comment at this
13 time on how much additional time should be allowed for
14 discovery.

15 MR. MAY: Mr. Chairman, I would like to
16 inform the Commission, as I did the parties who were
17 at the settlement conference, that Washington Mutual
18 Bank has been examining the reported volumes for 2005.

19 In its testimony the bank stated that its
20 2005 volumes were in-part based upon Postal Service
21 data because they had nothing better at that point to
22 rely on, but they were going to continue to study the
23 volume.

24 They have now discovered that their first-
25 class volumes for 2005 was greatly underestimated. So

1 that the volume for 2005 for first-class will be
2 substantially larger than reported, and as soon as the
3 bank and the Postal Service can be sure what the
4 correct numbers are, we will file an errata that
5 includes these new numbers, with explanations about
6 the reasons for the under-count, and the implications
7 of it.

8 So that may indeed affect the parties'
9 intentions for discovery. I would anticipate that
10 there will be additional questions generated by that
11 filing, and I thought that you should take that into
12 account, and the parties should.

13 CHAIRMAN OMAS: Thank you, Mr. May. Anyone
14 else?

15 MS. DREIFUSS: Mr. Chairman, may I ask Mr.
16 May if he thinks that the test year volume estimates
17 may be changed to reflect the fact that the 2005
18 figures are different than had originally been
19 estimated.

20 MR. MAY: I know the forecast will not be
21 changed because of that.

22 CHAIRMAN OMAS: Is there anyone else?

23 MR. MILES: Mr. Chairman, the Val-Pak
24 Companies would request that discovery stay open until
25 June 23. I don't know how Mr. May's errata will

1 affect that request.

2 CHAIRMAN OMAS: We will take that under
3 advisement. A factor in developing this procedural
4 schedule is whether any participant will want to
5 present testimony in opposition to the request.

6 I recognize that it may be too early in this
7 case to know whether testimony in opposition will be
8 offered, but it can't hurt to ask. Does any
9 participant here currently plan to submit testimony in
10 opposition to the pending requests?

11 (No response.)

12 CHAIRMAN OMAS: Does any participant have
13 any other matter to raise in today's prehearing
14 conference?

15 (No response.)

16 CHAIRMAN OMAS: Does any of my fellow
17 Commissioners have anything --

18 MR. ALVERNO: Mr. Chairman.

19 CHAIRMAN OMAS: Oh, excuse me.

20 MR. ALVERNO: Thank you, Mr. Chairman.

21 CHAIRMAN OMAS: Mr. Alverno.

22 MR. ALVERNO: Yes. In regards to Mr. Miles'
23 request for discovery until June 23, I think -- well,
24 that is almost two months from now, and in our
25 estimation, we anticipate that the errata that Mr. May

1 referred to would probably be filed very soon, and so
2 we kind of believe that continuing discovery until
3 almost the end of June might be more time than is
4 really needed for a relatively small case.

5 My thinking on this would be three weeks
6 from the date that we filed our errata would probably
7 be a suitable period of time to explore all the issues
8 that the errata might give rise to. So that would be
9 what we would recommend and propose to the Commission.
10 Thank you, Mr. Chairman.

11 CHAIRMAN OMAS: Well, Mr. Alverno, as I said
12 earlier, we will take these recommendations, your
13 recommendations and Val-Pak's recommendations, under
14 consideration. And we will come out hopefully with a
15 schedule that will accommodate everyone. Does any of
16 my fellow Commissioners have anything that they would
17 like to add this morning?

18 (No response.)

19 CHAIRMAN OMAS: There being none, I would
20 like to thank you all for being here. I will take
21 these --

22 MR. MAY: Mr. Chairman, I do note that in
23 your notice of the prehearing conference that you
24 asked participants to be prepared to address the
25 Service's proposal for limiting issues. I don't know

1 whether the Chair wishes to take that up. We did as a
2 matter of fact at the settlement conference have a
3 wide discussion among counsel --

4 CHAIRMAN OMAS: Well, I did ask does any
5 participant have any other matter to raise.

6 MR. MAY: I'm sorry. It is not my motion.
7 It is the Postal Service's motion. But since they are
8 not going to discuss it, I thought that I should bring
9 it out.

10 CHAIRMAN OMAS: Okay. Mr. Alverno, do you
11 have a comment?

12 MR. ALVERNO: Thank you, Mr. Chairman. We
13 have received some comments back from the parties
14 certainly in writing, and also at the settlement
15 conference, expressing opposition to various
16 components of that motion.

17 So it seems appropriate that the Commission
18 rule on the motion in writing. It seems like it is
19 possible that one of the elements that we had set out
20 was not actually opposed, and I believe that element
21 was number three in our proposal for the limitation of
22 issues.

23 And the other ones, I do detect that there
24 was opposition, and so the Commission would presumably
25 want to take that under advisement and decide whether

1 or not to limit issues, I guess, in regard to the
2 opposed matters and the unopposed matters. Thank you,
3 Mr. Chairman.

4 CHAIRMAN OMAS: And we shall do that. Mr.
5 May, do you have anything else to add?

6 MR. MAY: No, Mr. Chairman.

7 CHAIRMAN OMAS: Thank you. And again as I
8 said, thank you. Does anyone else have anything to
9 offer at this point, any of the participants?

10 (No response.)

11 CHAIRMAN OMAS: There being none, I would
12 like to thank you all for being here today, and I will
13 take your responses here today under consideration,
14 and issue a procedural ruling in the near future.
15 This proceeding and conference is adjourned. Thank
16 you very much.

17 (Whereupon, at 11:18 a.m., the prehearing
18 conference in the above-entitled matter was
19 concluded.)

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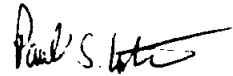
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REPORTER'S CERTIFICATE

DOCKET NO.: MC2006-3
CASE TITLE: Washington Mutual Bank NSA
HEARING DATE: April 25, 2006
LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Postal Rate Commission.

Date: April 25, 2006



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